



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

SHARED SERVICES

June 10, 2002

In reply refer to: CILR-4

Mr. P. Arley Harrel
Williams, Kastner & Gibbs
Two Union Square
601 Union Street, Suite 4100
Seattle, Washington 98101-2380

Dear Mr. Harrel:

Thank you for your recent letter to the Bonneville Power Administration (BPA) in which you object to Invoices FOI-00008 and FOI-00007. The amounts included in these invoices reflect the full direct search, review, and reproduction costs incurred by the BPA to respond to your FOIA requests #02-014 and #02-017.

Under FOIA, Federal agencies are authorized to implement regulations in order to charge fees that recoup the full allowable direct costs incurred in fulfilling a FOIA request. 5 USC § 552(3)(D). You will find the definitions of "search," "review," and "reproduction" in our Department of Energy regulations on FOIA at 10 CFR 1004. Both of your FOIA requests stated that you would make payment of reasonable costs as required by FOIA. You instructed us to contact your legal assistant, Nancy Lygren "...with an estimate for copies if the cost to copy [the requested materials] exceeds \$200.00. " Copy costs were not expected to exceed \$200.00 on either of your requests, so BPA did not contact your legal assistant.

The FOIA recognizes four distinct fee categories of FOIA requesters: (1) commercial use requesters, (2) educational and non-commercial scientific institutions, (3) representatives of the news media, and (4) all other requesters. 10 CFR 1004.9. The allowable direct costs for search, review and reproduction that BPA may assess depends upon which category a requester falls into.

As a result of your letter, I have reviewed the above invoices and consulted with our legal counsel. I have determined that you were inadvertently billed as a commercial use requester. Because your status on each of these particular requests was legal representative for adjoining landowners, you should not have been billed as a "commercial use" requester, but rather should have been billed in the category of "other" requester.

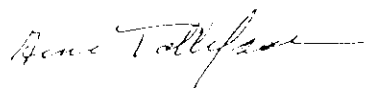
BPA is authorized to charge requesters in the "other" category the full direct cost of searching for and reproducing records, with the exception that the first 100 pages of copying and the first two hours of search time will be furnished without charge. 10 CFR 1004.9(4).

You will receive revised invoices to reflect the elimination of all review charges, since review charges are not applied to "other" requesters. Reproduction charges will also be reduced by 100 pages on request 02-017. You will not be billed for any copying charges on request 02-014 since you were provided with less than 100 pages in response to this FOIA request. Since "other" requesters receive two hours of search time without charge, BPA will also reduce 2 hours of the average actual search time costs for each of your requests. This will reduce search costs by \$98.18 on request 02-014 and \$72.72 on request 02-017.

Depending on the FOIA request, BPA can commit a substantial amount of time and effort searching for records and reviewing those records for release or withholding. Copy costs are usually the most inexpensive part of the total FOIA cost. You will receive revised invoices from our accounting department under separate cover. The BPA will expect payment in full of these revised invoices when they are received. Thank you for calling this discrepancy to our attention.

If you are dissatisfied with this determination, you may make an appeal within thirty (30) days of your receipt of this letter to Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, Washington, D.C. 20585. Both the envelope and letter must be clearly marked "Freedom of Information Act Appeal."

Sincerely,



Gene Tollefson
Freedom of Information Officer

bcc:

N. Wittpenn - KEC-4

C. Jacobson - LC-7

J. Bennett - LC-7

J. Kintz - DFRO - 2

G. Tollefson - CILR-4 ✓